



In the Matter of:

**KAREN RADLE,
SANDRA WAYNE,**

COMPLAINANTS,

v.

PANTHER BUS SERVICE,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainants:

Janet McDonough, Esq., Chippewa Falls, Wisconsin

For the Respondent:

G. Jeffrey George, Esq., Moen Sheehan Meyer, Ltd., Lacrosse, Wisconsin

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

BACKGROUND

These cases arise under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2003) (STAA). A Department of Labor Administrative Law Judge (ALJ) consolidated the cases by order issued on May 6, 2003. The parties submitted two Predetermination Settlement Agreements,¹ seeking approval of the settlements and dismissal of the complaints. The ALJ issued a Recommended Decision and Order Approving Settlement Agreement (R. D. & O.), recommending approval of the parties' agreements and dismissal of the complaints.

¹ With the exception of the named complainants and case numbers, the two agreements are identical.

DISCUSSION

Pursuant to STAA § 31105(b)(2)(C), “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s preliminary findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. § 1978.111(d)(2). The regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.* In this case, at the time the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. However, pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board, must, nevertheless, issue a final decision and order in this case. *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001). The parties have not filed objections to the ALJ’s Order.

The Board requires that all parties requesting settlement approval provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or certify that the parties have not entered into other such settlement agreements. *See Biddy v. Alyeska Pipeline Serv. Co.*, ARB Nos. 96-109, 97-015, ALJ No. 95-TSC-7, slip op. at 3 (ARB Dec. 3, 1996). In the instant case the parties have certified that the agreements constitute the full and entire settlement agreements with respect to the Complainants’ claims. *See Settlement Agreements*, ¶ 3.

Review of the agreements reveal that they may encompass the settlement of matters under laws other than the STAA. *See Settlement Agreements*, ¶ 1. The Board’s authority over settlement agreements is limited to such statutes as are within the Board’s jurisdiction and is defined by the applicable statute. Therefore, we approve only the terms of the agreements pertaining to the Complainants’ STAA claims. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56 (ARB Apr. 30, 2003).

Paragraphs 2 and 3 of the agreements could be construed as a waiver by the Complainants of any causes of action they may have that could arise in the future. As the Secretary has held in prior cases, *see Johnson v. Transco Products, Inc.*, No. 85-ERA-7 (Sec’y Aug. 8, 1985), such a provision must be interpreted as limited to the right to sue in the future on claims or causes of action arising out of facts or any set of facts occurring before the date of the agreement. *See also Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 51-52 (1974); *Rogers v. General Elec. Co.*, 781 F.2d 452, 454 (5th Cir. 1986).

CONCLUSION

The parties have agreed to settle the Complainants' STAA claims. Accordingly, we **APPROVE** the agreements and **DISMISS** the complaints.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge